

MINUTES OF A SPECIAL
MEETING
IONIA CITY COUNCIL
TUESDAY, DECEMBER 28, 2004
5:00 p.m. Ionia City Hall Council Chambers

The meeting was called to order by Deputy Mayor Kim Patrick at 5:00 p.m. with the Pledge of Allegiance

I. ROLL CALL –

Present: Gordon Kelley, Monica Miller, Kim Patrick, Kevin Miller, Jim Smith, Bob O'Mara with Mayor Dan Balice and Councilmember Robin Woodbury arriving after the start of the meeting.

Absent: Teri Ruthruff

II. Deputy Mayor Patrick opened the Public Hearing on the Cable Television Franchise Ordinance for CC Michigan. There was no comment.

III. Deputy Mayor Patrick closed the Public Hearing on the Cable Television Franchise Ordinance

IV. ACTION ITEMS

A. Ordinance 12-2004-01 Cable Television

Motion by Jim Smith

Supported by: Kevin Miller

To remove the following ordinance from the table and approve it at second reading following the scheduled public hearing.

CITY OF IONIA
ORDINANCE NO. 12-2004-01

**AN ORDINANCE TO AUTHORIZE THE GRANTING OF A NON-
EXCLUSIVE CABLE TELEVISION FRANCHISE TO CC MICHIGAN,
LLC DOING BUSINESS AS CHARTER COMMUNICATIONS**

THE CITY OF IONIA ORDAINS:

Section 1. The City Council of Ionia hereby authorizes the granting of a non-exclusive cable television franchise to CC Michigan, LLC, doing business as Charter Communications pursuant to the terms set forth in the City of Ionia, Michigan Nonexclusive 2004 Cable Television Franchise with CC Michigan LLC d/b/a Charter Communications, attached hereto.

Section 2. The City Manager, City Clerk, City Attorney, Special Counsel and other City officials are hereby authorized and directed to take all actions

necessary to effect and implement the City of Ionia, Michigan Nonexclusive 2004 Cable Television Franchise with CC Michigan LLC.

Section 3. This ordinance shall be effective fifteen (15) days following publication.

Moved by: Jim Smith

Supported by: Kevin Miller

Yeas: Gordon Kelley, Monica Miller, Kim Patrick, Kevin Miller, Jim Smith, Bob O'Mara

Nays: None

Absent: Teri Ruthruff

Ordinance approved first reading: December 7, 2004

Ordinance Public Hearing Held: December 28, 2004

Ordinance approved second reading: December 28, 2004

Ordinance declared adopted.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the City Council in a special session held on Tuesday, December 28, 2004 at 5:00 p.m. and it was published on: Friday, December 31, 2004

With a public hearing held: December 28, 2004

Thomas J. Wiczorek

Deputy City Clerk

B. Resolution on Cable Television (Mayor Balice and Councilmember Woodbury present)

Motion by: Gordon Kelley

Supported by: Kevin Miller

RESOLUTION NO. 12-2004-01

WHEREAS, CC Michigan, LLC doing business as Charter Communications ("Charter") pays franchise fees to the City of Ionia pursuant to its cable franchise and has done so for many years, and

WHEREAS, the City and forty-four other communities served by Charters earlier this year conducted an audit through December 31, 2003 of the franchise fees paid by Charter and retained the accounting firm of Plante & Moran to assist in this regard, and

WHEREAS, during the audit Charter sent the City a check for additional franchise fees in prior years which it had overlooked, and

WHEREAS, the accounting firm identified certain underpayments by Charter, which Charter disputed, and the parties now propose to resolve same by Charter paying \$474 to the city and the City is agreeable to same.

NOW, THEREFORE BE IT RESOLVED:

1. That promptly upon the City submitting to Charter a signed copy of this resolution that Charter shall sign same and remit to the city a check in the amount of \$474.
2. That upon receipt of said check this resolution shall be fully effective and shall resolve all past claims which the City may have upon Charter, or vice versa, for franchise fees due and owing prior to December 31, 2003, and
3. That the preceding sum represents a full and complete satisfaction and compromise of all sums due to the city (or due to be rebated by the city to Charter) for franchise fees for all time period prior to December 31, 2003 and that the payment of said sum is a full and complete release of all rights, claims, causes of actions, liabilities, disputes and demands which either party may have upon the other for franchise fees due and owing (or potentially to be rebated) for periods prior to December 31, 2003 under the terms of Charter's franchise. The preceding payment shall not be construed as an admission of any liability or wrongdoing on the part of Charter.
4. This resolution will inure to the benefit and be binding upon Charter, the City of Ionia and its respective successors and assigns. The parties hereto agree to join in and execute any instruments or do any other act or thing necessary or proper to carry into effect this or any part of this resolution. This resolution shall be interpreted and adjudicated in accordance with the laws of Michigan whose courts shall have exclusive jurisdiction hereof.
5. The City Manager and/or City Clerk are hereby authorized and directed to sign this resolution in triplicate and mail same to:

Mr. Timothy J. Ransberger
Vice President-Government Relations
Charter Communications
4670 Fulton Street East
Suite 102
Ada MI 49301

WITNESSES

CITY OF IONIA

date

date

WITNESSES

CC MICHIGAN, LLC

date

date

Upon vote for the adoption of said Resolution, the vote was:

AYES: Mayor Dan Balice, Gordon Kelley, Monica Miller, Kim Patrick, Kevin Miller, Jim Smith, Robin Woodbury, and Bob O'Mara

NAYS: None

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Ionia, Michigan at a special meeting held on December 28, 2004, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the open Meetings Act, Act No. 267 of the Michigan Public Acts of 1976, including in the case of a special or rescheduled meeting, notice by posting at least 18 hours prior to the time set for said meeting.

Dated: December 28, 2004

Thomas J. Wiczorek
Deputy City Clerk

C. Obsolete Property Tax Certificate

Motion by: Kevin Miller
Supported by: Jim Smith

To approve the following resolution and authorize a contract be signed by the mayor and manager with the Tallon Group for an Obsolete Property Tax Certificate for 434 W. Main Street, Ionia, MI in the amount of \$40,000.

Ayes: Mayor Balice, Gordon Kelley, Monica Miller, Kim Patrick, Robin Woodbury, Jim Smith, Kevin Miller, Bob O'Mara

Nays: None

D. Dance Permit

Motion by: Daniel Balice
Supported by: Kevin Miller

To approve of the resolution with the State of Michigan Department of Consumer and Industry Services Liquor Control Commission for Olivera's Sports Pub; a request from Riccardo Biella, LLC for a new dance permit in conjunction with 2004 Class C licensed business located at 119 N. Dexter, Ionia, MI, 48846, Ionia County.

Ayes: Mayor Balice, Gordon Kelley, Monica Miller, Kim Patrick, Robin Woodbury, Jim Smith, Kevin Miller, Bob O'Mara

Nays: None

Motion carried.

E. A presentation and question-answer session was given by Tim Forell of Austin Pines proposed subdivision on the Bosley Property as well as his engineer from Dixon Engineering.

A special meeting with Tom Phillips and Bill Danhoff of Miller Canfield was scheduled for 5 p.m. on Monday, January 3, 2005 at 5:00 p.m. in the council chambers to answer additional questions.

V. Adjourn

Motion by: Robin Woodbury

Supported by: Monica Miller

To adjourn

Respectfully submitted,



Thomas J. Wieczorek
City Manager/Deputy City Clerk